

CITY OF MUSKEGON  
PLANNING COMMISSION  
REGULAR MEETING  
MINUTES

**November 12, 2020**

Chairperson T. Michalski called the meeting to order at 4:05 p.m. and roll was taken.

MEMBERS PRESENT: J. Montgomery-Keast, L. Spataro, B. Larson, B. Mazade, T. Michalski, J. Doyle

MEMBERS ABSENT: F. Peterson, excused; S. Gawron, excused; E. Hood, excused

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: M. Gross, Brooklyn, NY; B. Farkas, Pomona, NY; C. Roberts, 7189 W 104<sup>th</sup>, Fremont MI; D. Foster, 135 Ottawa St; M. McGuffey, 876 Allen Ave; T. Harper, 993 Michigan Ave; J. Belka, 150 Ottawa, Grand Rapids; N. Douglas, 904 Amity Ave.; E. Spann, 253 E Walton Ave.

**APPROVAL OF MINUTES**

A motion to approve the Minutes of the regular Planning Commission meeting of October 15, 2020 was made by J. Montgomery-Keast, supported by L. Spataro and unanimously approved.

**PUBLIC HEARINGS**

Hearing, Case 2020-20: Request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for MMFLA and MRMTA Growing, Processing and Provisioning/Retail license types at 965 W Western Ave, 920 Washington Ave and 1330 Division St by P & G Holdings, LLC. M. Franzak presented the staff report. The property at 920 Washington Ave was recently approved as part of the marihuana facilities overlay district for retail/provisioning license types. The property owner would now like to expand the types of marihuana licenses allowed on site, which also includes the property at 965 W Western Ave. The address of 1330 Division St was originally included as well, but was later withdrawn at the applicant's request, as it would be used for parking only. This request would allow all growing licenses types, processing licenses and provisioning/retail licenses at 965 and 920 W Western Ave. Notice was mailed to property owners and occupants within 300 feet of the property. At the time of this writing staff had received any comments via e-mail: B. and C. Perry of 930 Washington Ave were opposed to the request, as was R. and N. Cramblit. Both couples were residents of the WaterMark. Staff recommends approval of the request at 965 W Western and 920 Washington Ave in an effort to redevelop the properties.

M. Franzak explained that 920 Washington had previously been approved for retail and provisional types of marihuana businesses, and the applicant now wished to expand the allowed license types and include the adjacent property at 965 Washington. L. Spataro asked why this request was being presented to the board at this time, as staff had indicated at the last meeting that a revision to the marihuana ordinance was forthcoming. M. Franzak stated that the revised ordinance would still not cover this request, and because the application was submitted, staff was obligated to present it to the board. B. Mazade asked what these parcels were zoned. M. Franzak stated that they were covered under a PUD with an underlying zoning of I-1, Light Industrial. B. Mazade asked if the PUD would

need to be amended to allow the uses being requested. M. Franzak stated that a PUD amendment was not necessary for an overlay district.

M. Gross was the property owner and described the property and its uses. He stated that Covid-19 had delayed their development plans for the next phase of the project, which was to construct 180 additional residential units. This opportunity had then come up with B. Farkas, an interested developer/investor, but his participation was contingent on approval of the marihuana licenses. B. Farkas stated that he was M. Gross's partner and was very familiar with the marihuana industry, having worked in the field in other states and countries. He was looking for large-scale processing and manufacturing. He discussed his background in the industry and stated that they had mainly been involved on the medical side of cannabis matters. T. Michalski asked what the plans for Phase III currently were, what the timeline was, and who would be responsible for ensuring that Phase III was completed. M. Gross stated that there were extensive plans, including office and work space, but those plans were contingent on obtaining the marihuana licenses. He stated that there were tax issues to be worked out, but estimated an 18- to 24-month timeline. It would be a joint project with both parties interested in seeing the project through to completion. J. Doyle asked about the status of the Knoll factory on the property. M. Gross stated that their lease was short-term now and as the WaterMark developed, Knoll would completely move out, possibly in 2 years. There were only a small number of employees left there, now. J. Montgomery-Keast asked for clarification on where marihuana was currently allowed on the property. M. Franzak stated that units in the 3rd floor and above were approved for retail and provisioning.

Public comments were heard. C. Roberts stated that he wanted the Planning Commission to be inclusive to all forms of marihuana licensing and to include smaller, local organizations. He stated that his company presented a proposal last month that had been tabled, and thought theirs was similar to this one. D. Foster echoed the desire for inclusivity and wanted to make sure caregivers were considered, since they had been in the business since the beginning. M. McGuffey stated that he represented the Muskegon County Marihuana Coalition and their concern was social equity. He stated that the Planning Commission needed to be transparent and ensure that social equity issues were addressed. R. Cramblit lived in the WaterMark building and had expressed his objection by e-mail. He had since spoken to M. Gross about his concerns regarding the odor issues that could be a problem with a grow operation. He stated that there was not enough clarity in the standards and enforcement regarding odors. He was also concerned about the additional traffic in the residential building, especially if sales were allowed until midnight. T. Michalski stated that having marihuana operations in a residential building was also a new issue for the Planning Commission that they had not dealt with in the past. T. Harper lived in the immediate area and was opposed to the request. She stated that the marihuana industry was not a family-friendly type of business and she was concerned that marihuana operations could attract a criminal element, in addition to additional noise and traffic to the residential area. B. Farkas stated that he had been successful in dealing with odor issues in his other marihuana businesses and didn't expect it to be a problem. He also expected that they would be hiring plenty of local people to help run all facets of the organization. J. Belka was the attorney representing the applicants. He stated that projects had been difficult to finance in the Muskegon market and this was an opportunity to allow Mr. Gross to continue to develop the site.

A motion to close the public hearing was made by B. Larson, supported by L. Spataro and unanimously approved.

A motion that the request to amend Section 2331 of the zoning ordinance to expand the marihuana facilities overlay district to allow for MMFLA and MRMTA Growing, Processing and Provisioning/Retail license types at 965 W Western Ave, 920 Washington Ave and 1330 Division St

by P & G Holdings, LLC be recommended to the City Commission for approval, was made by B. Larson. Motion died due to lack of support.

L. Spataro stated that he was still not comfortable considering these requests without a comprehensive ordinance in place. T. Michalski concurred, and stated that he would have preferred to hear the ordinance amendment case first, followed by the tabled cases, then this case.

A motion to table this case was made by B. Larson, supported by L. Spataro and unanimously approved, with J. Montgomery-Keast, L. Spataro, B. Larson, B. Mazade, T. Michalski, and J. Doyle voting aye.

L. Spataro explained to the applicants that the City Commission needed to pass a comprehensive ordinance before the Planning Commission was comfortable voting on whether to approve these types of requests.

Hearing, Case 2020-21: Staff-initiated request to amend the zoning ordinance to allow Microbusinesses, Designated Consumption Establishments, Class A Recreational Grows, Class B Recreational Grows, Class A Medical Grows and temporary marihuana events as a special use permitted as part of the Michigan Regulation and Taxation of Marihuana Act in I-1, I-2, MC, B-2 and B-4 zoning districts. M. Franzak presented the staff report. The City Commission had asked staff to look for a way to help local caregivers gain access into the MMFLA and MRMTA marihuana businesses. Staff has developed the following proposal: Amendments to the special use permit sections of B-2, B-4, MC, I-1 and I-2 zoning districts:

Special Use Permitted - Microbusinesses, designated consumption establishments, class A recreational grows (up to 100 plants), class B recreational grows (up to 500 plants), class A medical grows (up to 500 plants) and temporary marihuana events, under the following conditions:

1. The property must not be located within 500 feet of a school.
2. The site plan must demonstrate the removal of blight from the property; including dilapidated fences, signs, light poles, etc.
3. Signage shall be limited to one sign, no larger than 25 square feet and shall not use the word marihuana/marijuana, cannabis or any other word or phrase which would depict marihuana/marijuana; nor may pictures of a leaf or leaves, green cross or any other rendering which would depict marihuana/marijuana be displayed on a sign or any part of the building.
4. Microbusinesses and designated consumption establishments may only operate between 8am and 12am.
5. Designated consumption establishments licenses may be stacked with the other license types. However, no other license type may be stacked with each other.
6. The special use permit may be revoked by the Planning Commission if odor nuisances persist.

M. Franzak pointed out that the requirement for a Special Use Permit would protect the applicant, as it was applicant-specific and could not be sold or transferred. T. Michalski noted that parking was not addressed. M. Franzak stated that it was subject to the rules of the existing parking ordinance, with a consumption establishment being similar to a bar, for parking purposes. B. Mazade asked if this language was meant to be inserted in to the Special Use section of the above-mentioned ordinances. M. Franzak confirmed that was correct. J. Montgomery-Keast stated that terms such as

“school” needed further definition to clarify whether it referred to home-schooling, colleges, K-12 schools and other types of non-traditional schools. She also asked where the 500-foot distance came from. M. Franzak stated that it was a standard distance from schools used in other ordinances. J. Montgomery-Keast stated that further restrictions were needed to address organizations such as youth centers, rehab centers, playgrounds, parks, and churches. She suggested that the cutoff date of 12:00AM be changed to 11:00PM, to match the city’s established quiet hours. L. Spataro stated that he would like to see the Planning Commission be able to further regulate hours of operation in certain circumstances, such as in residential areas.

Public comments were heard. C. Roberts stated that he was not in favor of this ordinance, as it was too restrictive. He wanted to see an ordinance that was inclusive of all license types. M. Franzak stated that this ordinance was meant to help caregivers to become involved in the industry. C. Roberts stated that he was familiar with the industry and different license types, and urged the Planning Commission not to allow large companies to come in and do something that the smaller players were not allowed to do. T. Michalski stated that this was a growing and constantly-changing industry, and Planning Commissioners were doing their best. C. Roberts stated that the State of Michigan would assist staff, and they had a social equity team that could put on a presentation. L. Spataro explained that, as a Planning Commission whose focus was on zoning and land use, they were not heavily involved in the social equity aspects of the ordinance; that would be a matter for staff and the City Commission. The Planning Commission’s focus was to determine whether the proposed use was compatible with the zoning. N. Douglas stated that he was also opposed to the ordinance, because it would severely limit the growth potential of caregivers getting in to the industry and keep them at the bottom. L. Spataro asked for clarification on what would cause those limitations. C. Roberts stated that it was the state licensing regulations; they needed to add wording to allow businesses to apply for other licenses. B. Mazade stated that many of the comments being made seemed to be business-specific; the Planning Commission needed to consider this proposal, and not negotiate for a specific business. J. Doyle liked the idea of allowing certain activities under a special use, which would enable the Planning Commission to fine-tune the guidelines based on special circumstances. M. Franzak explained that there were different marihuana license types and this ordinance was not intended to include them all; that is what the overlay districts were for. M. McGuffey was upset that there were no social equity provisions included in the ordinance. T. Harper asked what happened to the “green zones”. M. Franzak stated that those marihuana overlay zones still existed and all license types were allowed there; this proposal would allow limited licenses in certain other zoning districts, not including residential.

A motion to close the public hearing was made by J. Doyle, supported by J. Montgomery-Keast and unanimously approved.

A motion that the request to amend the zoning ordinance to allow for Microbusinesses, Designated Consumption Establishments, Class A Recreational Grows, Class B Recreational Grows, Class A Medical Grows and temporary marihuana events as a special use permitted as part of the Michigan Regulation and Taxation of Marihuana Act in I-1, I-2, MC, B-2 and B-4 zoning districts be recommended to the City Commission for approval, with the following amendments: Any adult-use marihuana business shall not be located within a 500-foot radius of any property occupied by: (1) a public playground, (2) a public park, (3) public housing, (4) a religious institution, (5) a public or private, vocational school, college, junior college, or university, (6) a state-licensed child care center or pre-school, (7) any public swimming pool, public or private youth activity facility, public outdoor recreation area (except trails), or public recreation facility, (8) a youth center, (9) a juvenile or adult halfway house, (10) correctional facility or rehab center; and that microbusinesses and designated consumption establishments may only operate from 11:00 PM, not 12:00 AM, was made by J.

Montgomery-Keast, supported by L. Spataro and approved, with J. Montgomery-Keast, L. Spataro, B. Mazade, J. Doyle voting aye, and B. Larson and T. Michalski voting nay.

Hearing, Case 2020-22: Staff initiated request to rezone the properties at 731 Yuba St, 205 E Muskegon, 225 Eastern Ave, 287 E Muskegon Ave, 185 E Muskegon Ave and 209 E Walton Ave to Form Based Code, Urban Residential. M. Franzak presented the staff report. Staff has been working with Allen Edwin Home Builders on a potential housing development at the former Farmers Market site on Yuba St. The properties at 731 Yuba St, 205 E Muskegon Ave, 255 Eastern Ave and 287 E Muskegon Ave are currently zoned I-1, Light Industrial, and 85 E Muskegon Ave and 209 E Walton Ave are currently zoned R-3, High Density Single-Family Residential. Staff is seeking a rezoning to FBC, UR to allow the housing development, which includes a majority of single-family homes, with some duplexes mixed in. Notice was mailed to everyone within 300 feet of the property. At the time of this writing staff had not received any comments.

M. Franzak explained that these parcels had previously been zoned as single family residential, but had been rezoned to industrial several years ago in anticipation of a food incubator being built. However, the residents opposed that use and it was never built. There were now residential homes proposed. L. Spataro had concerns about garages facing the front if there were no alleys, which he didn't think was allowed in FBC-UR districts. M. Franzak stated that the alleys proposed to be vacated only existed on paper, they were not functional alleys. L. Spataro stated that there were no streets either, so those would have to be built. M. Franzak stated that an alley was not a requirement. J. Montgomery-Keast asked what would be required to remediate the site, considering its past history of environmental contamination. M. Franzak stated that whoever developed the site would do what was needed to protect their interests. E. Spann stated that he was a long-time resident of the area and was in favor of residential homes being built there; however, he wanted to see environmental testing required.

A motion to close the public hearing was made by B. Larson, supported by J. Montgomery-Keast and unanimously approved.

A motion that the request to rezone the properties at 731 Yuba St, 205 E Muskegon, 225 Eastern Ave, 287 E Muskegon Ave, 185 E Muskegon Ave and 209 E Walton Ave to Form Based Code, Urban Residential be recommended to the City Commission for approval, was made by L. Spataro, supported by B. Mazade and unanimously approved, with J. Montgomery-Keast, L. Spataro, B. Larson, B. Mazade, T. Michalski, and J. Doyle voting aye.

Hearing, Case 2020-23: Staff initiated request to vacate E Muskegon Ave between Cedar St and Emerald St. The details of this request were the same as case 2020-22. The streets in question existed on paper only. Board members had no questions.

A motion to close the public hearing was made by B. Mazade, supported by J. Montgomery-Keast and unanimously approved.

A motion that request to vacate E Muskegon Ave between Cedar St and Emerald St. be recommended to the City Commission for approval, was made by J. Montgomery-Keast, supported by L. Spataro and unanimously approved, with J. Montgomery-Keast, L. Spataro, B. Larson, B. Mazade, T. Michalski, and J. Doyle voting aye.

Hearing, Case 2020-24: Staff-initiated request to vacate Rathborne St between Walton Ave and Eastern Ave. The details of this request were the same as case 2020-22. The streets in question existed on paper only. Board members had no questions.

A motion to close the public hearing was made by J. Montgomery-Keast, supported by L. Spataro and unanimously approved.

A motion that request to vacate Rathborne St between Walton Ave and Eastern Ave. be recommended to the City Commission for approval, was made by J. Doyle, supported by B. Larson and unanimously approved, with J. Montgomery-Keast, L. Spataro, B. Larson, B. Mazade, T. Michalski, and J. Doyle voting aye.

Hearing, Case 2020-25: Staff initiated request to vacate the alley east of Cedar St and west of Eastern Ave. The details of this request were the same as case 2020-22. The alleys in question existed on paper only. Board members had no questions.

A motion to close the public hearing was made by L. Spataro, supported by J. Montgomery-Keast and unanimously approved.

A motion that request to vacate the alley east of Cedar St and west of Eastern Ave be recommended to the City Commission for approval, was made by J. Montgomery-Keast, supported by J. Doyle and unanimously approved, with J. Montgomery-Keast, L. Spataro, B. Larson, B. Mazade, T. Michalski, and J. Doyle voting aye.

#### **NEW BUSINESS**

None

#### **OLD BUSINESS**

None

There being no further business, the meeting was adjourned at 5:53 PM.

DR